



CITY OF MOUNTAIN VIEW

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May 15, 2008

VIA FACSIMILE

Ross Johnson, Chairman
Fair Political Practices Commission
428 J Street
Sacramento, CA 95814

Re: Gifts to an Agency – Repeal and Readoption of Regulation 18944.2

Dear Chair Johnson:

The League of California Cities' FPPC Committee has previously provided input on the Commission's study relative to the above referenced regulation. Many of our concerns and comments are discussed in the staff report and addressed in the revised regulations. We therefore find ourselves in agreement with the draft regulation and the comments made in the staff report.

By way of general comment, the League and its Institute for Local Government value transparency in government, and consider it to be a critical goal in conducting the public's business. The proposed changes to the subject regulation will advance that goal, if for no other reason, than the new disclosure requirements discussed on page 1 of the staff report. With respect to particular changes, we have the following comments.

The definition of "Agency Head" addresses our concern with the prior proposed language. At a minimum, it allows the agency to designate who the agency head is for purposes of this regulation.

With respect to the prohibition on accepting travel payments for elected officials, while we recognize this may be a significant change, we agree with the staff report comments (in the paragraph ending on the top of page 3) that "not designating" the official(s), as a requirement, is often fictitious, at best. We also concur that there is no section of the Act that exempts travel paid by a private business for an elected official and do appreciate when the regulations carefully track the prohibitions and allowances of the Act itself. Finally, the staff report correctly points out that unlike employees or appointed officials, campaign accounts do provide elected officials with an alternate source of funding legitimate government travel if their agency cannot pay for it. The use of campaign funds in this regard also has the added benefit of public disclosure, thus transparency.

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The anti-lavish provision in paragraph (d)(2) and preauthorization requirements are likewise responsive to our input and we believe, workable. With respect to a third party paying airlines and hotels directly, we concur with staff's portrayal of how difficult direct payments to the agency can be in terms of budgeting and auditing. If a payment were made to a typical city for travel, those funds would have to be received as revenue and in order to be spent would have to be appropriated as part of a departmental budget which could require a formal action of the legislative body, sometimes requiring a super majority vote.¹ There are several other steps that often make the processing of converting a revenue into an expenditure both time consuming and, at times, mind-numbing.

In closing, we believe that the current discussion and study of this regulation is helpful to the regulated community in understanding how this exception operated and the new clarifications, we believe, strengthen and focus the regulation. We also concur that the prohibition of accepting travel payments under this regulation for elected officials will avoid some of the questionable trips that may tend to erode confidence in local government while at the same time not affecting an elected official's other avenues to fund those expenditures.

Thank you for your consideration of these comments and I will be happy to provide any further information as may be requested.

Sincerely,



Michael D. Martello
City Attorney

¹ For example, the Mountain View City Charter requires that any appropriation made outside of our annual budget requires five (of seven) votes.